IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 18610 of 2004

Between:

Akula Ramaswamy, S/o Buchi Ramaiah,
R/o 2-3-369/3,Hanuman Temple Road, Khammam.

..... PETITIONER

AND

1 The Regional Transport Officer, Khammam.
2 Assistant Motor Vehicle Inspector, Vijayawada, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to declare the demand notice in R.No. 241/A12/2004 dated 30-6-2004 as illegal, arbitrary and unjust by issuing appropriate writ or direction.

Counsel for the Petitioner: MR.M.V.S.SURESH KUMAR

Counsel for the Respondent Nos.1 and 2: GP FOR TRANSPORT

The Court, at the state of admission, made the following:

O R D E R: (Per Hon'ble Sri Justice B.Sudershan Reddy)

The order dated 30-06-2004 on the file of the Regional Transport Officer, Khammam is impugned in this writ petition.

The Assistant Motor Vehicle Inspector, Vijayawada having checked the vehicle of the petitioner herein on 15-09-2003, issued the show-cause notice, dated 01-03-2004, requiring him to show cause within seven days from the date of receipt of the notice as to why the amount of life tax and compounding fee under Section 200 of the Motor Vehicle Act, as detailed in the notice, should not be collected from him. The petitioner was put on notice that at the time of the check, the following irregularities were noticed.

1. The vehicle plying as personal vehicle used for his owner purpose violating permit condition.

2. Trip Sheet/Log Book not maintained.

3. Without Fitness Certificate.

4. Carrying (2+1) passengers from Khammam to Vijayawada.

The petitioner in his explanation, dated 16-03-2004, did not specifically deny the allegation that the vehicle was used for the owner purpose at the time of check. The explanation of the petitioner which may have to be noticed is as follows:

> "That, the alleged irregularities are self contradictory. It is strange that how one can maintain a trip sheet/log book for a personal vehicle used for owner purpose".

It is under those circumstances, the Regional Transport Officer, Khammam, in his order, dated 30-06-2004, observed that the petitioner in his explanation did not dispute the allegation leveled against him and the same was treated as an admission that the vehicle was used for the owner purpose at the time of check.

In the impugned order, it is further stated that during the check, the officer has obtained a statement from one of the traveling person by name E.Ratnakar Rao, Trinity College, Khammam that the vehicle was being utilized for own purpose for carrying a patient and not for hire or reward. The officer having taken the explanation and the material available on record found that the allegation leveled against the petitioner is established beyond doubt that the vehicle was used for own purpose and not plied for hire or reward. It is under those circumstances, the demand of Rs.24,360/- was confirmed.

This Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India does not act as an Appellate Court. No procedural and substantive irregularities in the decision making process have been brought to our notice. In order to satisfy ourselves as to whether the authority has properly construed the reply submitted by the petitioner to the show cause notice, we have ourselves gone through the reply submitted by the petitioner to the show cause notice, and found that there is no specific denial of the allegation made against the petitioner in his reply submitted to the show cause notice.

In the circumstances, we find no irregularity as such in the order passed by the Regional Transport Officer, Khammam. We find no merit in this writ petition and the same shall accordingly stand dismissed without any order as to costs.

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B. SUDERSHAN REDDY, J.

Date : 29-11-2004

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T. CH. SURYA RAO, J.

GS/PVKS

To

1. The Regional Transport Officer, Khammam.
2. The Assistant Motor Vehicle Inspector, Vijayawada, Krishna District.

3. 2CCs to the G.P. for Transport, High Court of A.P., Hyderabad (OUT)

4. 2CD copies